

IN THE UNITED STATES DISTRICT COURT
DISTRICT OF OREGON

JAMES RUSSELL ILER,)	
)	
Plaintiff,)	Civil Case No. 07-1036-KI
)	
vs.)	OPINION AND ORDER
)	
LISE YERVASI, JOHN and JANE DOES)	
1-99,)	
)	
Defendants.)	
)	

James Russell Iler
c/o Postmaster - General Delivery
Richland, Oregon 97870

Pro Se Plaintiff

Kenneth S. Montoya
280 Liberty Street, SE, Suite 206
Salem, Oregon 97301-3595

Attorney for Defendants

KING, Judge:

Before the court is Defendant Yervasi's Rule 12 Motions Against Plaintiff's Complaint (#6).

DISCUSSION

Yervasi moves to dismiss this case because of insufficient service of process and failure to state a claim due to the rambling nature of the Complaint. Instead, I will rely on judicial immunity because I conclude that it is futile for Iler to correct the deficiencies noted by Yervasi.

Iler alleges that his car was seized by a deputy sheriff and he was summoned to appear in court to answer to a Complaint issued by the deputy. Yervasi is the Justice of the Peace at the Baker Justice Court. When Iler appeared, he was dismayed by Yervasi's demeanor in court and her refusal to dismiss the matter for lack of probable cause. Iler seeks \$1 million in damages, wants Yervasi disbarred and fired, wants her PERS benefits to be revoked, seeks the return of his car, and wants to enjoin all state and county employees from enforcing the state laws.

“Few doctrines were more solidly established at common law than the immunity of judges from liability for damages for acts committed within their judicial jurisdiction.” Harvey v. Waldron, 210 F.3d 1008, 1012 (9th Cir. 2000) (quoting Pierson v. Ray, 386 U.S. 547, 553-54 (1967)). A judge is not immune for action taken outside of the judge’s judicial capacity or for judicial actions taken in the complete absence of all jurisdiction. If the judge has jurisdiction to perform the “general act” in question, the judge is immune if the act is erroneous, if the act has consequences that injure the plaintiff, and irrespective of the judge’s motivation. Id. A justice of the peace is covered by judicial immunity as any other judge. Houghton v. Osborne, 834 F.2d 745, 750 n.4 (9th Cir. 1987).

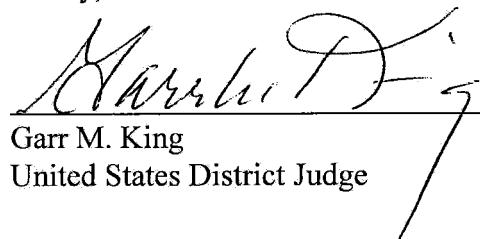
All actions to which Iler objects were taken by Yervasi within her judicial jurisdiction in handling the Complaint issued to Iler concerning the seizure of his car. Accordingly, she is entitled to judicial immunity and I must dismiss the claims alleged against her.

CONCLUSION

Defendant Yervasi's Rule 12 Motions Against Plaintiff's Complaint (#6) is granted. This action is dismissed with prejudice.

IT IS SO ORDERED.

Dated this 30th day of January, 2008.



Garr M. King
United States District Judge